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**Trade Union Bill**  
**17 July 2015**

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## **Trade Union Bill**

### Overview of key changes

The government has published the Trade Union Bill which contains wide-ranging measures designed to restrict the ability of unions and their members to organise collectively and take industrial action.

These include thresholds for turnouts in strike ballots, restrictions on the right to picket and the removal of the ban on the use of agency workers to replace striking workers.

The government is extending the role and powers of the Certification Officer (CO), who is responsible for regulating trade unions, including providing the CO with a new power to impose financial penalties on unions.

Extensive new red tape will be imposed on unions, as they will be expected to pay for the costs of existing and additional reporting requirements through a new levy which will cover the costs of the CO. Unions will be required to report annually to the CO about levels of industrial action and on how political funds have been used. Union members will also be required to opt-in every five years to any payments into a union political fund.

The Bill also requires employers to report on resources allocated for facility time in the public sector, and in organisations providing public services. The government is also taking powers to impose a cap on the amount of facility time paid in each public and local authority. They will also have the power to reduce the statutory rights of trade union officials to paid time off, limiting the ability of unions to represent their members at work effectively, to negotiate improved pay and conditions and to improve access to learning and skills. In addition the Bill gives the government the power to interfere in individuals' contracts of employment and collective agreements which provide for facility time, even though these are voluntarily agreed by public sector employers.

The TUC believes that all these measures are unfair, unnecessary and undemocratic. They will undermine constructive employment relations and the civil liberties of working people in Britain.

## Timetable and consultations

The government expects that the Second Reading on the Bill will take place in the House of Commons either in September or October 2015.

Alongside the Bill, the government has published three consultations which focus on the definition of the 'important services' to be covered by the 40 per cent 'yes vote' requirement, regulation of picketing and protests which take place during industrial action, and plans to remove the ban on the use of agency workers during strikes. The government plans a very short consultation period (seven weeks) over the summer. Responses to the consultations will be reported to Parliament during the debate on the Bill.

## Key themes

- The proposals will lead to a serious imbalance of power within the workplace, undermining effective negotiations between employers and unions.
- The Conservative proposals will undermine constructive employment relations, extending disputes and making it more difficult to achieve amicable settlements.
- The government is not interested in encouraging workplace democracy. Instead they want to prevent midwives, fire-fighters, teachers and cleaners working in the Underground from protesting against cuts in jobs, and pay and conditions.
- The right to strike and to protest are fundamental rights which should be respected in a free and democratic society. The government proposals will impose greater restrictions on trade unions than any other voluntary sector membership organisations.
- The Conservatives claim to be the party of working people. However, their proposals will remove employees' ability to achieve better working conditions and living standards.
- Employers will be able to bring in agency workers with a view to breaking strikes, regardless of the consequences for health and safety.
- Trade union protests and pickets will be subject to levels of public and police scrutiny and controls that go far beyond what is fair and acceptable in a modern democracy. These changes will also be a waste of police time.

## The Trade Union Bill: The Government's Proposals

### Thresholds for strike ballots

Industrial action, including strike action, will only be lawful if:

- There is a minimum 50 per cent turnout amongst trade union members who are entitled to vote. Outside certain 'important public services' a simple majority will need to vote in favour of strike action. For example, if 500 members are balloted then at least 250 must vote and at least 126 people must vote yes for industrial action to go ahead. (Clause 2)
- In certain 'important public services', there must be a 50 per cent turnout and

40 per cent of those entitled to vote – i.e. 40 per cent of those who were balloted - must vote in favour of industrial action. This means that if 50 per cent of members participate in the ballot, then 80 per cent of those voting must vote in favour in order for a strike to take place. For example, if 500 members are balloted, at least 250 members must vote in the ballot and 200 must vote yes for industrial action to go ahead (Clause 3).

- The TUC believes that treating abstentions as 'no' votes for industrial action is undemocratic. International supervisory bodies (such as the International Labour Organisation (ILO)) state that only votes cast should be taken into account.
- The Conservative manifesto and Queen's Speech briefings stated that the 40 per cent yes vote requirement would apply to four 'essential public services': health services, fire services, transport services and education. These four services are listed in the Bill, although the Bill clarifies that in education the 40 per cent 'yes vote' requirement will only apply to education services for those aged under 17. The government has extended this list to include border security, decommissioning of nuclear installations, and the management of radioactive waste.
- In the consultation document the government has indicated that the 40 per cent 'yes vote' rule will apply to private organisations which provide public services, especially in the transport sector. However, in education it will be limited to state-funded schools. The Bill states that the 40 per cent 'yes vote' requirement will apply not only to members who 'normally' work on the provision of service, but also to those employed in ancillary activities. In the accompanying consultation document, the government has indicated this may include for example those in management, administrative or cleaning roles where the absence of their support 'would have an adverse impact on the delivery of the service'.

The definition for 'important public services' used by the government is far broader than the definition of 'essential services' recognised in international law.

The government's rationale for restricting the right to strike in 'important public services' is that they effectively provide a monopoly-service to its users. This wide-ranging restriction on the right to strike appears to go well beyond what is permitted by international standards. It is not legitimate to restrict a fundamental right on the grounds that strike action may inconvenience the public or businesses.

The Bill contains an order-making power which allows the government to define more specifically which occupations and functions will be covered by the 40 per cent 'yes vote' requirement. This means Parliament will not know exactly who the 40 per cent 'yes vote' rule will apply to when they debate the Bill. However, the government can only use the power to specify which jobs or workers in the named sectors are covered. They cannot extend the 40 per cent rule to additional sectors. It is important that future regulations are precisely defined and that trade unions can determine which workers are subject to the threshold.

The government is consulting on how to define what an 'important public service' is. They are seeking views on who the 40 per cent 'yes vote' requirement should

apply to within in the six named sectors and on whether it should apply to all workers or to those doing a particular list of jobs. The consultation document includes a list of the types of jobs which the government expects to be covered, including:

**Fire:** Fire fighters, fire control personnel required for dealing with calls for help and for summoning personnel to emergencies, airport fire fighters, and Ministry of Defence fire fighters.

**Health:** NHS and foundation trust staff including ambulance trust staff and emergency call centre handlers.

**Education:** Staff working in state funded provision covering statutory school age pupils (5 to 16 year-olds: i.e. reception class to Year 11).

**Transport (roads):** Traffic Officer Staff and Regional Control Centre Staff (highways management), local bus services, and road gritting staff.

**Transport (rail):** Those working for railway infrastructure operators and managers, including signals and control room staff, and passenger and freight train operating company staff including drivers, guards and conductors.

Those working in equivalent roles for: light rail operations outside of London, the Channel Tunnel Concessionaire, and International Rail Passenger Operators.

**Transport (aviation):** Air traffic controllers, staff performing certain security functions at airports, airport rescue and emergency service providers.

**Transport (London):** London Underground, Overground and Docklands Light Railway drivers, infrastructure operators, managers, maintenance and depot staff including signals control staff, and Operators of the London bus network.

**Transport (maritime):** Tug crews, pilots, crane operators, coastguard maritime, coastal and aeronautical staff.

**Border security:** Border force staff working at the border, border force staff providing 'essential support and services' to those at the border such as managing border security systems and maintaining 'other critical infrastructure'.

**Nuclear decommissioning:** Workers involved in the decommissioning of nuclear installations, management of spent fuel and nuclear waste.

The TUC's initial estimates suggest that at least two-thirds of the workers covered by these provisions will be women.

**Expected impact:**

- The introduction of thresholds will make it very difficult for unions to organise industrial action. Although in recent weeks a number of transport unions have met the threshold requirements (for example, in the Network Rail and the London Underground disputes) this will be harder for unions in public services and large companies, particularly those with more dispersed workforces.
- The Bill will undermine constructive employment relations.
- Effective negotiations rely on equal bargaining power. Limiting the right to strike will mean that employers are able to impose change without taking the views of their workforce into account.
- It is in employers' and employees' interests for disputes to be resolved quickly and amicably. The government's proposals mean that disputes are more likely to become protracted. Unions will take more time in the run up to ballots, to ensure they achieve the necessary turnout.
- There could be a greater risk of wildcat strike action. In these cases, unions' hands are tied as they are required to repudiate the action. It would therefore be more difficult for employers to get employees back to work and it would not be clear who Acas should invite into negotiations.
- It is expected that unions will face increased legal challenges around industrial action.
- The complexity of defining 'important public services' will create inevitable confusion. How will a ballot take place in a workplace where some occupations are covered by the 'important public services' provisions and others are not? How will a union ballot in schools with sixth forms (where 17 and 18 years olds are also educated)?

**E-balloting**

The government argues that the introduction of thresholds for strike ballots is aimed at boosting democracy in the workplace. In reality, the proposals are ideological and designed to restrict workers' voices and to prevent unions from effectively representing their members' interests.

If the government was interested in boosting workplace democracy it would allow e-balloting which would help bring ballots into the 21st century. Online balloting can be safe and secure, much like online banking. Many membership organisations, including the RNIB, the Institute of Chartered Accountants for England and Wales, the National Trust, the Magistrates' Association, the Countryside Alliance and the Royal College of Surgeons, use electronic and online balloting for elections. A recent Speakers' Commission for Parliament recommended that by 2020 secure online voting should be an option for all voters.

The TUC has been calling on the government to introduce e-balloting. Before the election, the TUC had discussions with BIS Ministers and officials on how an e-balloting scheme for union elections and ballots would work in practice. Online balloting would boost participation in union democracy and should have been done a long time ago.

### **Background information on international human rights standards**

International agencies with responsibility for supervising compliance with human rights standards have criticised the use of strike ballot thresholds. The International Labour Organisation has stated that only votes cast in ballots should be taken into account in strike ballots. The government's proposals go well beyond what is permitted by internationally recognised standards.

### **Mandates for strikes and industrial action**

#### **Details on the ballot paper**

Unions will be required to provide more information on the ballot paper. Failure to do so may mean employers will be able to apply for an injunction to stop a strike going ahead or for damages after the industrial action has started. Unions are already required to ask members on the ballot about the type of industrial action they are willing to take (i.e. strike action, or action short of a strike). The ballot paper must also include a statement alerting members that if they take industrial action this may breach their contract of employment, reminding them they have no protection from dismissal if action is unofficial, and only limited unfair dismissal rights (for 12 weeks) for official action.

Under the Bill (Clause 4) unions will be required to provide additional information on the ballot paper:

- The ballot paper must provide 'a reasonably detailed indication' of the dispute with the employer.
- Where the voting paper asks whether members would support action short of a strike, the ballot paper must describe what form this might take, such as a work to rule.
- The expected timetable for the dispute must be set out on the ballot.

The explanatory notes accompanying the Bill suggest unions should specify for example the months during which action might take place.

#### **Expected impact:**

- These rules will create more red tape for unions.
- In some disputes it will be difficult for the union to predict how employers will respond to strike action and how quickly they will be willing to negotiate a settlement. It will be very difficult for unions therefore to predict when they would plan industrial action. It is also not clear what will happen if action

continues after the specified expected timetable.

- This proposal will imbalance power relations at work, assisting employers to plan for future strike action by for example lining up agency staff (given the government's wider proposed changes to lift the ban on their use).

### **Time limits for strike mandates**

The government is introducing a time limit for ballot mandates (Clause 8). Currently, provided industrial action starts within four weeks of a successful ballot, the mandate for industrial action remains intact for as long as the dispute with the employer exists.

Under the government's proposals, unions will no longer be required to start industrial action within four weeks. However, where industrial action – whether continuous or discontinuous – lasts for more than four months the union will be required to re-ballot.

The government's focus for these proposals is some public sector disputes relating to the government's proposals on pay and pension changes. In these disputes, unions have relied on one ballot mandate to organise a succession of strike days over a period of 12 months or so. Under the government's proposals, after four months unions would be required to re-ballot, even if government employers refused to engage in genuine negotiations and the dispute remained unresolved.

Rather than imposing additional restrictions on workers' ability to strike, the government should engage in genuine negotiations with trade unions.

### **Expected impact:**

- The Bill will create substantial legal and administrative costs for unions, who spend significant sums on ballots.
- Where ballots meet the government's thresholds the measures may intensify disputes, leading to more sustained industrial action at the outset as unions try to settle disputes without the need for a re-ballot. This will create more disruption for the wider public and risks worsening employment relations.

### **Extended notice of industrial action**

Unions will be required to give the employer 14 days' notice, as opposed to the current 7 days', before industrial action or a strike can start (Clause 7).

### **Expected impact:**

- This proposal is designed to reduce the momentum in union campaigns.
- It will also lead to protracted disputes meaning that amicable settlements are more difficult to achieve.

## New powers for the Certification Officer to gather information on industrial action

The Certification Officer (CO) is an independent agency with responsibility for regulating trade unions and employers' associations. The Certification Officer will have new powers to gather information on industrial action taken by trade union members (Clause 6).

In their annual return, unions will be required to report to the CO on whether industrial action has taken place in the last 12 months, the nature of the disputes, what action was taken, and the turnout and ballot results.

If unions fail to comply they may face financial penalties (about which more detail is provided on page 13, where changes to the role of the CO are discussed).

This new duty will create significant new administrative burdens on unions who do not necessarily gather this data centrally. The TUC questions why this new duty is necessary and what purpose it will serve. We do not think it is appropriate that the State should gather detailed information about private disputes between employers and unions. It is also possible that employers may object to such information being published online and to a permanent record of disputes being retained. Strikes are a symptom of poor industrial relations rather than the cause. Many employers may be concerned to find that the government is proposing that detailed information about their workplace operations will be made publicly available.

## Restricting rights to picket

Currently, the law protects the right for trade union members to engage in peaceful picketing at the entrance to their workplaces. Trade unions already have to comply with the provisions that are set out in the statutory Code of Practice on picketing, which places detailed and significant requirements on unions including limiting the number of people on a picket line to seven.

The Bill currently adds one specific new requirement on unions, which is based on provisions in the Code of Practice on picketing (Clause 9). Under the proposals unions must appoint a picket supervisor (union official or member) to oversee the picket who must have letter of authorisation from the union which they will be required to carry with them and present upon request to the police or 'to any other person who reasonably asks to see it'. Unions must take steps to inform the police of the supervisor's name and how they can be contacted. The supervisor must also wear an arm band or badge that identifies them. They must be present at the picket or contactable by the police and available to attend at short notice.



### **Expected impact:**

- If unions do not comply with these rules, employers could apply to a court for an injunction to stop the strike or for damages from the union. The TUC is particularly concerned that failure to comply with such specific and bureaucratic requirements will have potential to allow employers to seek to stop a strike, even if (under the wider provision in the Bill) significant turnout thresholds have been met.
- Requiring a picket supervisor to provide evidence of a letter of authorisation to 'any person' who 'reasonably seeks it' risks creating unnecessary tension on pickets lines.

### **Wider proposals under consultation**

The government is consulting on new wide-ranging restrictions on union members' right to protest when protests are linked to industrial action. These could include requiring unions to report publicly to employers and regulators (the Certification Officer and the police) their protest plans 14 days in advance of any action taking place. The plans would need to specify when a union is intending to hold a picket or protest, where it will be, how many people it will involve and whether they plan to use 'loudspeakers, props, banners etc.'.

The government's proposals even include requiring unions to report on plans to run Twitter or Facebook accounts. The consultation document also suggests that unions will have to report in advance on the likely content of any protest websites. The TUC does not believe that this level of scrutiny and monitoring is appropriate in a modern democracy as it will undermine union members' rights to freedom of expression.

Although the government suggests that unions will have the chance to update their plans once the industrial action has started, they also note that if unions do not provide updates or if they fail to provide initial notification of their intended activities, they could face financial penalties imposed by the CO.

The government is also considering whether to direct local authorities to use anti-social behaviour orders against union members participating in pickets and protests.

In addition, it is seeking views on whether:

- New criminal offences and sanctions should be introduced such as an offence of intimidation on the picket line.
- Any other measures contained in the Code of Practice on picketing should be made legally enforceable, meaning that employers may be able to apply for an injunction or for damages from the union if pickets do not comply. This could include the limit on the number of members on a picketing line.

The TUC believes that tighter restrictions on the right to picket are unnecessary and unjustified and will divert scarce police resources away from tackling serious crime.

Unlawful picketing is already regulated by both civil and criminal law. For example, it is a criminal offence for pickets to use threatening, abusive or insulting words or behaviour or disorderly behaviour towards any workers seeking to go to work or to the police. Pickets also must not use or threaten violence or intentionally or recklessly damage property.

The government's proposals, and in particular those under consultation, threaten to undermine the civil liberties of working people in Britain, limiting their rights to protest in defence of their jobs and for improved pay and conditions and exposing them to an unacceptably high level of monitoring and scrutiny.

### Opt-in process for political fund ballots

Currently, every ten years unions are required to ballot their members to determine whether the union should maintain a political fund. Union members have the right to opt out from their subscriptions being used for political fund purposes.

In the future union members will *also* be required to opt-in every five years to agreeing to subscriptions being used partly used to fund political parties or party political campaigns. Union members will also have a right to opt-out at any point of paying into the political fund. Unions will either need to collect a separate amount for the political fund or to provide a rebate to members who are not contributing. The amount refunded would be the amount that would have been paid into a political fund if they had opted in (Clause 10).

#### **Expected impact:**

- Opt-in processes will increase administrative costs for unions and may reduce the level of contributions raised.
- The Bill will restrict unions' rights to freedom of association and their ability to engage in political debates.
- Few members may opt in to political funds, as is the case in Northern Ireland.

It is widely known that opt-in processes reduce participation. For example, the government's approach to auto-enrolment for pensions, which is based upon an opt-out model, was purposefully chosen to maximise participation based on substantial behavioural economic evidence.

### New powers for the Certification Officer to scrutinise political expenditure

The Certification Officer will have new powers to investigate how unions' political funds are used and where the money goes. As part of their annual return, unions

will be required to report to the CO on how all expenditure from their political fund has been used – who it's been paid to and for what purpose.

The categories of spending covered include:

- Contributions to, or the payment of expenses for, a political party.
- Provisions of services or property for use by or on behalf of any political party.
- The funding of any ballot by a union in connection with election to political office or the maintenance of any holder of political office.
- The funding of conferences or meetings by or on behalf of a political party.
- Party political electioneering material or products.

This new requirement to report will apply to unions spending more than £2,000 per year from a political fund. This government will be able to change this figure through secondary regulations. The information will be published on the CO's website alongside union's annual membership return.

If a union does not comply with the reporting requirements, the CO will be able to impose a financial penalty.

These rules will apply not only to unions but also to employers' associations.

### **Expected impact:**

- These measures will create significant new administrative burdens for trade unions.
- They will also enable the government to monitor how unions spend their resources and invite significant public scrutiny of how unions choose to use their political funds.

### Limits on facility time

The government is seeking to limit the amount of facility time provided to public sector unions. In doing so, the government is seeking to undermine unions' abilities to represent their members effectively.

### **Reporting on spending on facility time**

The Bill provides the government with the power to require all public sector employers to publish information each year on the annual amount of funds used for trade union facilities, including the paid time off for union officials (Clause 12). Employers will be required to report on:

- How many of their employees are trade union officials.
- How much it has spent on facility time.
- The proportion of their pay bill that has been paid to union officials.
- The percentage of the money spent on facility time on different duties or activities. This might include how much facility time was taken up on trade

union duties, including collective bargaining, on representing members in grievances and disciplinary procedures, on health and safety duties or for union learning reps promoting skills and training opportunities.

The government will also have the power to extend this duty to organisations that carry out public functions that are partly or entirely funded by the taxpayer.

### **Capping facility time**

The Bill also includes a reserve power (Clause 13) which would permit the government to introduce an arbitrary cap on the amount of money each authority can spend on facility time.

The power will mean that the government can be selective as to which public authorities and indeed local authorities may be forced to impose such a cap.

Government ministers will also have the power to impose a cap on the amount of facility time which unions can devote to general trade union duties, such as collective bargaining and consulting members on restructuring or redundancies; representing members in grievances and disciplinary procedures; assisting the workforce to access skills and training through union learning reps or even on health and safety duties.

The proposal that central government should be able to impose a cap on all public authorities, including local authorities, on how much money they spend on trade union facilities sharply conflicts with the government's localism agenda. The TUC believes each local authority should have the freedom to decide how they manage employment relations.

### **Expected impact:**

- The cap will reduce the capacity of trade unions to represent their members and resolve disputes in the workplace before they escalate.
- There is a risk that the proposal for a cap could conflict with EU law, which protects the rights of health and safety reps to paid time off for their duties and training; the rights of union representatives to paid time off and office facilities during consultations on collective redundancies and outsourcing (TUPE rights); and even under general information and consultation arrangements (covered by the Information and Consultation of Employees Regulations).

### **Removing trade unions' rights to facility time**

- Government ministers are also proposing that they should have wider powers to restrict existing statutory rights to facility time for union officials in the public sector. Ministers would not need primary legislation to make these changes. Instead they could use a statutory instrument.
- This means that Parliament would be deprived of a proper opportunity to scrutinise or amend legislation limiting trade union rights.
- The Bill also gives the government the power to interfere in individuals' contracts of employment and collective agreements in the public sector which provide for facility time, even though these are voluntarily agreed by employers.
- The government is proposing measures which are clearly designed to limit the

ability of unions to represent their members at work effectively, to negotiate improved pay and conditions and to improve access to learning and skills.

- These measures represent a significant attack on trade union rights, which are also fundamental human rights, protected by the European Convention on Human Rights and ILO Conventions.

### Changes to the role of the Certification Officer

The Bill significantly extends the role, remit and powers of the CO. As stated above, unions will face new obligations to report to the CO annually on when industrial action takes place and on political fund expenditure.

Other key changes included in the Bill include:

- The CO will no longer need to wait for a complaint from a member to investigate a union; they will be able to start investigations on their own volition. This will include being able to act on intelligence provided by third parties (including employers). The CO will also have a power to appoint inspectors to carry out investigations.
- Where the CO suspects that a union may have breached its statutory duties, they will have new investigatory powers. This will include the ability to take copies of documents from unions' national and branch offices and from union assurers who have responsibilities under the Lobbying Act relating to union membership records. These new powers represent a major new intrusion by the State into union affairs and to trade union members' rights to privacy. The only documents which will be protected from CO powers are those covered by legal privilege.
- The CO will also have a new power to impose financial penalties on unions.

### **Levying a charge from unions and employers' associations**

As outlined above, the Trade Union Bill imposes significant new administrative obligations on unions. Unions will face a major increase in red tape and will also be expected to pay for the enforcement of these new obligations.

The Bill (Clause 17) contains a power permitting the government to levy a charge from levied from trade unions to cover the running costs of the Certification Officer. These currently stand at approximately £1m but are expected to rise under the new regime. The levy looks set to apply to employers' organisations, including the Engineering Employers' Federation (EEF), Electrical Contractors' Association, Federation of Master Builders, and the National Farmers' Union. The government is consulting on how much should be levied. Federated employers' organisations will not be included.

### **Expected impact**

- Unions will face significant new costs, given the realities of having to pay for the

CO and the new investigative powers that the CO will be granted.

- These new powers are likely to deter people from joining trade unions. Some workers do not want their employer or the government to know they are a member, for fear of discrimination or victimisation. Some will fear that the new powers for the CO increase the risk of blacklisting.
- All of these new powers look set to apply to unions and employers' organisations. Although the levy will not apply to federated employers' organisation – i.e. the CBI – other employers' organisations are likely to be concerned at the new costs they will be expected to bear

### Scope of the Bill

The Bill will apply to England, Wales and Scotland, but not to Northern Ireland where employment law and trade union rights are a devolved matter.

### Measures not included in Trade Union Bill

Some of the government's proposals on trade unions do not require primary legislation. Instead they will be able to use secondary legislation to make the relevant changes.

#### **Removing the ban on the use of agency workers to replace strikers**

The government plans to remove the current ban on the supply of agency workers to replace individuals who are participating in official industrial action. The ban is contained in The Conduct of Employment Agencies and Employment Businesses Regulations 2003, Regulation 7.

The government can use secondary legislation to remove the ban on agency workers. They plan to publish draft regulations around the same time as the Trade Union Bill. The regulations must be debated in both Houses of Parliament.

The current ban on the use of agency workers to break strikes has been in place since 1973. This proposal shows that ministers want to create an uneven playing field.

This proposal also flies in the face of good practice. In recent years, large agencies operating across the EU and Ciett (the EU level employers' organisation for agencies) have signed joint statements with Uni Global Union recommending that agency workers should not be used to replace striking workers.

#### **Expected impact:**

- The proposal risks long-term damage to industrial relations as striking workers will resent the use of agency staff.
- It will give agency workers the invidious choice of crossing the picket line or losing employment.
- Allowing the use of agency workers could also raise genuine concerns about

health and safety in the workplace and for the public if inexperienced workers without proper training were expected to take on the roles of the permanent workforce.

### **Reviewing minimum service levels for strikes in essential services**

The Conservative party has previously indicated that they are proposing to review the arrangements for minimum service levels for strikes in essential services. The existing arrangements have worked well for many decades and have not generally proved the focus of disputes. Unpicking existing agreements may lead to new tensions.

Union members are committed public servants and have always agreed to provide minimum levels of service to ensure that the public's safety and health is protected.

When midwives took strike action last October, the Royal College of Midwives and its local representatives worked with hospitals to ensure services were still available to women in need of urgent care, such as those in labour. Other health unions agreed similar arrangements.

It is therefore not clear what the government has in mind, other than further restricting the ability of public servants to take industrial action. It is possible that the government may seek to extend the current arrangements to sectors such as transport, requiring a minimum level of service provision during tube or rail strikes. Such an approach would go well beyond what is permitted by ILO international labour standards.

### **Government consultations**

Alongside the Bill, the government has published three consultations, each of which will be the subject of a short consultation period (7 weeks) over the summer. The consultation period will close on 7 September 2015, the week before TUC Congress. The short consultation period means that the government's proposals will not be the subject of appropriate public scrutiny.

The consultations are:

- **'Ballot thresholds in important public services'**. The government is seeking views on who the 40 per cent 'yes vote' requirement should apply to within the six identified sectors, specifically whether it should apply to all workers or just to those doing a particular list of jobs. It is available at: <https://www.gov.uk/government/consultations/ballot-thresholds-in-important-public-services>
- **'Tackling intimidation of non-striking workers'**. The government is seeking views on the Bill proposals that unions must appoint a picker supervisor. They also are seeking views on whether unions should be obliged to publish picketing and protest plans before disputes, whether new criminal offences should be created and whether the Code of Practice on picketing should be strengthened. It is available at: <https://www.gov.uk/government/consultations/tackling-intimidation-of-non-striking-workers>

[intimidation-of-non-striking-workers](#)

- **'Hiring agency staff during strike action'**. The government is seeking views on the likely impact of their proposal to permit employers to use agency workers to break strikes. It is available at:  
<https://www.gov.uk/government/consultations/hiring-agency-staff-during-strike-action-reforming-regulation>

Impact assessments relating to the three consultations can also be found on the BIS website.

## Supporting evidence and arguments

### **Workers strike to protect pay and jobs, not for political reasons**

- According to the Office of National Statistics, in 2014, 89 per cent of working days lost were due to disputes about pay and pensions.
- Between 2004 and 2014, 77 per cent of days lost were linked to pay and pension disputes, 15 per cent were in response to redundancies, five per cent were linked to working hours and three per cent were caused by working conditions and supervision, work location, dismissal and disciplinary issues or trade union related matters.

### **Industrial action is often time-limited**

In 2014, 64 per cent of all stoppages lasted for only one or two days and accounted for 633,000 days lost (80 per cent) and 93 per cent of workers taking part in industrial action. 21 per cent of stoppages lasted for three or four days, six per cent ran for five days, seven per cent for six to ten days and just three per cent lasted for eleven days or more.

### **There is no evidence to justify wide-ranging restrictions on industrial action**

The number of days lost to industrial action per year has fallen dramatically over the last 30 years:

- Since 2010, on average 647,000 days have been lost to industrial action each year, compared to 7,213,000 days lost per year in the 1980s.
- Last year there were only 155 stoppages as a result of industrial action – in an economy of over 30 million people this is an extremely low level of strikes.

### **Professional bodies are opposed to government plans**

The British Dental Association (BDA) has criticised government plans to undermine bargaining powers for healthcare professionals. Mick Armstrong, Chair of the British Dental Association, said:

“Dentists have never exercised their right to strike, but we recognise it is a legitimate tool in the arsenal of any profession seeking a better deal.

“In recent years we have seen colleagues serving vulnerable groups really feel



the squeeze. We are seriously concerned that new laws will further undermine the ability of all healthcare professionals to stand up for their rights and for their patients.”